

REMARKS

Claims 15, 58, and 62 have been cancelled without prejudice for pursuit in a continuation application. Claims 46, 59, and 60, as amended, and claims 9, 13, 14, 16, 47, 57, and 61 are pending in the instant application. No new matter has been added as a result of the above-described amendments. The rejections set forth in the Office Action have been overcome by amendment or are traversed by argument below.

Applicants note that the instant Office Action included an Interview Summary stating that the Examiner attempted to contact Applicants' representative to discuss a correction of a misspelling in claims 15, 58, and 62 (*see* section 2 below). Although Applicants regret that, as a result of the unavailability of Applicants' representative, no interview took place, Applicants believe that their acknowledgement of the receipt of the Interview Summary is sufficient to meet the requirements of M.P.E.P. § 713.04.

1. Election/Restriction

The Office Action states that claims 15, 46, 47, 58-60, and 62 are directed, in part, to inventions that are independent or distinct from the invention originally claimed. The Action's basis for this statement is that although claims 15, 58, and 62 encompass the elected invention, *i.e.*, a polypeptide comprising the amino acid sequence set forth in SEQ ID NO: 5, they also encompass a multitude of other distinct inventions comprising amino acid sequences that differ from the amino acid sequence of the elected invention. The Action also states that claims 15, 46, 47, 58-60, and 62 are withdrawn from consideration, to the extent that the claims are drawn to non-elected inventions.

As noted in Applicants' response to the Office Action mailed May 20, 2003, claims 14 and 15, as originally filed, recited, *inter alia*, an isolated polypeptide comprising an amino acid sequence which is at least about 70 percent identical to the amino acid sequence of SEQ ID NO: 5, and an isolated polypeptide comprising the amino acid sequence as set forth in SEQ ID NO: 5 with at least one conservative amino acid substitution. Applicants also noted in their response that because claims 14 and 15 were *only* assigned to groups 3 and 4 in the Restriction Requirement mailed April 27, 2001, the claims of group 3 must be directed to murine Secs-1 polypeptides *and murine Secs-1 polypeptide variants*, and the claims of group 4 must be directed to human Secs-1 polypeptides *and*

human Secs-1 polypeptide variants. Applicants contend that because claims 15, 58, and 62 merely recite particular human Secs-1 polypeptide substitution variants, the species recited in claims 15, 58, and 62 fall within the genus of molecules defined by originally-filed claims 14 and 15, and therefore, must fall *within* either the invention of group 3 or the invention of group 4. In other words, because the genus of human Secs-1 polypeptide variants recited in originally filed claims 14 and 15, and assigned to the invention of group 4, encompasses each and every member of the genus of human Secs-1 polypeptide variants recited in amended claims 15, 58, and 62, amended claims 15, 58, and 62 *simply cannot* be directed to a multitude of other distinct inventions comprising amino acid sequences that differ from the amino acid sequence of the elected invention.

Although Applicants respectfully disagree with the Action's assertion that claims 15, 58, and 62 encompass a multitude of other distinct inventions comprising amino acid sequences that differ from the amino acid sequence of the elected invention, Applicants have cancelled claims 15, 58, and 62 in an effort to expedite prosecution of the pending claims to allowance. Applicants reserve the right to pursue claims directed to the human Secs-1 polypeptide substitution variants recited in claims 15, 58, and 62 in a timely filed continuation or divisional application.

2. Objections to claims 15, 46, 47, 58-60, and 62

The Office Action first asserts an objection to claims 15, 46, 47, 58-60, and 62 because the term "substituted" is misspelled in claims 15, 58, and 62 at lines 17, 21, and 18 respectively.

As described in section 1 above, Applicants have cancelled claims 15, 58, and 62, rendering this objection moot.

The Office Action next asserts an objection to claims 15, 46, 47, 58-60, and 62 as encompassing the subject matter of non-elected inventions.

As described in section 1 above, Applicants have cancelled claims 15, 58, and 62, rendering this objection moot.

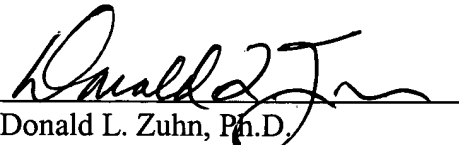
CONCLUSIONS

Applicants respectfully contend that all conditions of patentability are met in the pending claims as amended. Allowance of the claims is thereby respectfully solicited.

If Examiner Rawlings believes it to be helpful, he is invited to contact the undersigned representative by telephone at 312-913-0001.

Respectfully submitted,
McDonnell Boehnen Hulbert & Berghoff

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